

**UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT**

No. 05-2701
DC No. 05-11291

BASIL WILLIAMS

Petitioner - Appellant

v.

UNITED STATES

Respondent - Appellee

ORDER OF COURT

Entered: January 4, 2006

Appellant has filed an application to proceed without prepayment of fees and affidavit in this court with prison trust account information, which we transmit to the district court for action. Fed. R. App. P. 24(a). Copies of the district court's ruling shall be forwarded to this court. The district court, if it denies the motion, is requested to state its reasons in writing. Fed. R. App. P. 24(a)(2). If defendant-appellant is not granted in forma pauperis status by the district court, he may file a motion to proceed in forma pauperis in this court, provided that he do so in accordance with Fed. R. App. P. 24(b).

By the Court:

Richard Cushing Donovan, Clerk

By: **JULIE GREGG**

Operations Manager

CERTIFIED COPY
I HEREBY CERTIFY THIS DOCUMENT
IS A TRUE AND CORRECT COPY OF
THE ORIGINAL ON FILE IN MY OFFICE
AND IN MY LEGAL CUSTODY.

FIRST CIRCUIT COURT OF APPEALS
BOSTON, MA

By: J. Calabrese Date: 1.4.06

[Certified Copies to the Honorable Nancy Gertner, Sarah A. Thornton, Clerk USDC]
[cc: Patrick M. Hamilton, AUSA, Dina Michael Chaitowitz, AUSA,
Ted Heinrich, AUSA, Basil C. Williams]

COPY

Richard Cushing Donovan, Clerk

Clerk's Office

United States Court of Appeals

1 Courthouse Way, Suite 2500

Boston, Mass. 02210

RE: Williams - vs - United States NO. 05-2701

Dear Mr. Donovan,

Please find enclosed to be filed in the above entitled matter, as ordered by the Court. A copy of my prison trust account statement, and a newly completed Affidavit to Accompany Motion for Leave to Appeal in Forma Pauperis.

Thank you for your time and assistance in this matter.

Dated: December 26, 2005

Respectfully Yours,

Basil Williams, pro-se

Basil C. Williams 22650-038

FCI Ray Brook

P.O. Box 9002

Ray Brook, NY 12977

**Affidavit to Accompany
Motion for Leave to Appeal in Forma Pauperis**

2005 DEC 29 A 11: 27

FILED IN CLERKS OFFICE
US COURT OF APPEALS
FOR THE FIRST CIRCUIT

District Court No. 05-11291
Appeal No. 05-2701

Basil C. Williams

v.

United States

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: Basil C. Williams

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: 12/26/05

My issues on appeal are: The district court's recharacterization of a motion, as a section 2255, violated my due process rights under Supreme Court precedent

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
(Prison Inst. Monthly) Employment	\$ <u>151.70</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Self-employment	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Interest and dividends	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Gifts	\$ 0	\$ N/A	\$ 0	\$ N/A
Alimony	\$ 0	\$ N/A	\$ 0	\$ N/A
Child support	\$ 0	\$ N/A	\$ 0	\$ N/A
Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$ N/A	\$ 0	\$ N/A
Disability (such as social security, insurance payments)	\$ 0	\$ N/A	\$ 0	\$ N/A
Unemployment payments	\$ 0	\$ N/A	\$ 0	\$ N/A
Public-assistance (such as welfare)	\$ 0	\$ N/A	\$ 0	\$ N/A
Other (specify):	\$ 0	\$ N/A	\$ 0	\$ N/A
Prison Pay Total Monthly income:	\$ 150.70	\$ N/A	\$ 0	\$ N/A

2. List your employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions)

Employer	Address	Dates of Employment	Gross monthly pay
Prisoner	ECI Bay Brook	/	/

3. List your spouses's employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions)

Employer	Address	Dates of Employment	Gross monthly pay
N/A	N/A	N/A	N/A

4. How much cash do you and your spouse have? \$ 100.00

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
<u>NONE</u>	<u>NONE</u>	\$ <u>0</u>	\$ <u>N/A</u>
<u>/</u>	<u>/</u>	\$ <u>0</u>	\$ <u>N/A</u>
<u>/</u>	<u>/</u>	\$ <u>0</u>	\$ <u>N/A</u>

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you or your spouse owns. Do not list clothing and ordinary household furnishings.

Home (Value)	Other real estate (Value)	Motor Vehicle #1 (Value)
<u>NONE</u>	<u>NONE</u>	Make & year: <u>NONE</u>
<u>/</u>	<u>/</u>	Model: <u>/</u>
		Registration#: <u>/</u>
Motor Vehicle #2 (Value)	Other assets (Value)	Other assets (Value)
Make & year: <u>NONE</u>	<u>NONE</u>	<u>NONE</u>
Model: <u>/</u>	<u>/</u>	<u>/</u>
Registration#: <u>/</u>	<u>/</u>	<u>/</u>

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
<u>NONE</u>	<u>NONE</u>	<u>NONE</u>
<u>/</u>	<u>/</u>	<u>/</u>

7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age
<u>Chyanne Williams</u>	<u>daughter</u>	<u>8</u>
<u>Iman Bartwell</u>	<u>son</u>	<u>10</u>

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Spouse
Rent or home mortgage payment (include lot rented for mobile home)	\$ <u>None</u>	\$ <u>N/A</u>
Are any real estate taxes included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and Telephone)	\$ <u>0</u>	\$ <u>N/A</u>
Home maintenance (repairs and upkeep)	\$ <u>0</u>	\$ <u>N/A</u>
Food	\$ <u>0</u>	\$ <u>N/A</u>
Clothing	\$ <u>0</u>	\$ <u>N/A</u>
Laundry and dry-cleaning	\$ <u>0</u>	\$ <u>N/A</u>
Medical and dental expenses	\$ <u>0</u>	\$ <u>N/A</u>
Transportation (not including motor vehicle payments)	\$ <u>0</u>	\$ <u>N/A</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>0</u>	\$ <u>N/A</u>
Insurance (not deducted from wages or included in Mortgage payments)	\$ <u>0</u>	\$ <u>N/A</u>
Homeowner's or renter's	\$ <u>0</u>	\$ <u>N/A</u>
Life	\$ <u>0</u>	\$ <u>N/A</u>
Health	\$ <u>0</u>	\$ <u>N/A</u>
Motor Vehicle	\$ <u>0</u>	\$ <u>N/A</u>
Other: <u>N/A Prisoner</u>	\$ <u>0</u>	\$ <u>N/A</u>
Taxes (not deducted from wages or included in Mortgage payments)(specify): <u>0</u>	\$ <u>0</u>	\$ <u>N/A</u>
Installment payments	\$ <u>0</u>	\$ <u>N/A</u>
Motor Vehicle	\$ <u>0</u>	\$ <u>N/A</u>
Credit card (name): <u>0</u>	\$ <u>0</u>	\$ <u>N/A</u>
Department store (name): <u>0</u>	\$ <u>0</u>	\$ <u>N/A</u>
Other: <u>N/A Prisoner</u>	\$ <u>0</u>	\$ <u>N/A</u>

Alimony, maintenance, and support paid to others	\$ <u>0</u>	\$ <u>N/A</u>
Regular expenses for operations of business, profession, or farm (attach detailed statement)	\$ <u>0</u>	\$ <u>N/A</u>
Other (specify): <u>N/A Prisoner</u>	\$ <u>0</u>	\$ <u>N/A</u>
Total monthly expenses:	\$ <u>0</u>	\$ <u>N/A</u>

9. Do you expect any major changes to your monthly income or expenses in your assets or liabilities during the next 12 months?

☐ Yes ☒ No

If yes, describe on an attached sheet.

I am a Federal Prisoner. I have no control over my income or housing situation.

10. Have you paid — or will you be paying — an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? \$ N/A

If yes, state the attorney's name, address, and telephone number:

11. Have you paid — or will you be paying — anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? \$ N/A

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

Federal prisoner proceeding Pro-se.

13. State the address of your legal residence.

Basil Williams, FCI Ray Brook P.O. Box
9002 Ray Brook NY 12977

Your daytime phone number: () NONE

Your age: 34 Your years of schooling: Senior in College

Inmate Inquiry

Inmate Reg #:	22650038	Current Institution:	Ray Brook FCI
Inmate Name:	WILLIAMS, BASIL	Housing Unit:	MOH
Report Date:	12/23/2005	Living Quarters:	M05-226L
Report Time:	8:01:13 AM		

[General Information](#) |
 [Account Balances](#) |
 [Commissary History](#) |
 [Commissary Restrictions](#) |
 [Comments](#)

General Information

Administrative Hold Indicator: No
 No Power of Attorney: No
 Never Waive NSF Fee: No
 Max Allowed Deduction %: 100
 PIN: 6952
 FRP Participation Status: Completed
 Arrived From:
 Transferred To:
 Account Creation Date: 4/25/2002
 Local Account Activation Date: 7/1/1991
 Sort Codes:
 Last Account Update: 12/22/2005 10:12:21 PM
 Account Status: Active
 ITS Balance: \$0.67

FRP Plan Information

FRP Plan Type	Expected Amount	Expected Rate
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Account Balances

Account Balance: \$135.91
 Pre-Release Balance: \$0.00
 Debt Encumbrance: \$0.00
 SPO Encumbrance: \$0.00
 Other Encumbrances: \$0.00
 Outstanding Negotiable Instruments: \$40.00
 Administrative Hold Balance: \$0.00
 Available Balance: \$95.91
 National 6 Months Deposits: \$1,523.72
 National 6 Months Withdrawals: \$1,513.05
 National 6 Months Avg Daily Balance: \$80.42
 Local Max. Balance - Prev. 30 Days: \$251.51
 Average Balance - Prev. 30 Days: \$99.76

Commissary History

Purchases

Validation Period Purchases: \$178.60
YTD Purchases: \$325.25
Last Sales Date: 12/22/2005 11:10:55 AM

SPO Information

SPO's this Month: 0
SPO \$ this Quarter: \$0.00

Spending Limit Info

Spending Limit Override: No
Weekly Revalidation: No
Spending Limit: \$340.00
Expended Spending Limit: \$178.60
Remaining Spending Limit: \$161.40

Commissary Restrictions

Spending Limit Restrictions

Restricted Spending Limit: \$0.00
Restricted Expended Amount: \$0.00
Restricted Remaining Spending Limit: \$0.00
Restriction Start Date: N/A
Restriction End Date: N/A

Item Restrictions

List Name	List Type	Start Date	End Date	Userid	Active
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Comments

Comments:

Deposits



Inmate Reg #:	22650038	Current Institution:	Ray Brook FCI
Inmate Name:	WILLIAMS, BASH	Housing Unit:	M011
Report Date:	12/23/2005	Living Quarters:	M05-226L
Report Time:	8:01:33 AM		

<u>Date/Time</u>	<u>User Id</u>	<u>Transaction Type</u>	<u>Amount</u>	<u>Ref</u>	<u>Payment#</u>
12/22/2005 10:12:21 PM	AMSERVICE	Western Union	\$20.00	33306006	
12/19/2005 5:38:21 AM	AMSERVICE	Lockbox - CD	\$50.00	70147603	
12/12/2005 5:44:55 AM	AMSERVICE	Lockbox - CD	\$40.00	70147103	
12/5/2005 7:59:00 AM	RBK2004	Payroll - UNICOR	\$248.73	006005	
11/29/2005 9:06:24 AM	AMSERVICE	Western Union	\$30.00	33304306	
11/7/2005 9:59:25 AM	RBK2004	Payroll - UNICOR	\$162.82	006002	
11/1/2005 12:22:28 PM	AMSERVICE	Western Union	\$50.00	33302306	
10/31/2005 11:38:48 AM	AMSERVICE	Lockbox - CD	\$40.00	70144303	
10/11/2005 8:05:38 AM	RBK2003	Payroll - UNICOR	\$164.63	006001	
9/12/2005 12:20:28 PM	AMSERVICE	Western Union	\$50.00	33324505	
9/12/2005 8:37:04 AM	RBK2003	Payroll - UNICOR	\$140.48	006032	
8/24/2005 4:11:27 PM	AMSERVICE	Western Union	\$100.00	33323205	
8/8/2005 7:14:28 AM	RBK2004	Payroll - UNICOR	\$109.02	006028	
7/21/2005 5:15:31 PM	AMSERVICE	Western Union	\$100.00	33320805	
7/11/2005 7:06:39 AM	RBK2004	Payroll - UNICOR	\$148.04	006026	
7/8/2005 2:13:34 PM	AMSERVICE	Western Union	\$30.00	33319905	
7/4/2005 5:38:16 AM	AMSERVICE	Lockbox - CD	\$40.00	70136103	
6/13/2005 7:51:16 AM	RBK2004	Payroll - UNICOR	\$151.04	006024	
5/21/2005 6:08:46 AM	AMSERVICE	Lockbox - CD	\$20.00	70133201	
5/3/2005 6:10:08 AM	AMSERVICE	Lockbox - CD	\$50.00	70131801	
5/2/2005 9:42:44 AM	RBK2004	Payroll - UNICOR	\$140.29	006020	
4/11/2005 8:02:37 AM	RBK2004	Payroll - UNICOR	\$175.25	006017	
4/8/2005 6:22:34 PM	AMSERVICE	Western Union	\$50.00	33313405	
3/29/2005 6:17:21 AM	AMSERVICE	Lockbox - CD	\$75.00	70129301	

**United States Court of Appeals
For the First Circuit**

No. 05-2701

BASIL WILLIAMS

Petitioner - Appellant

v.

UNITED STATES

Respondent - Appellee

ORDER OF COURT
Entered: December 20, 2005

Appellant's motion for leave to proceed on appeal in forma pauperis is denied without prejudice to appellant submitting a prison trust account statement as required by Form 4 in the Appendix of Forms to the Federal Rules of Appellate Procedure.

Failure to pay the filing fees or submit a prison trust account statement on or before **January 3, 2006** may result in dismissal of this appeal for lack of diligent prosecution. Loc. R. 3(b).

By the Court:
Richard Cushing Donovan, Clerk

By: **JULIE GREGG**
Julie Gregg, Operations Manager

[cc: Patrick M. Hamilton, AUSA, Dina Michael Chaitowitz, AUSA, Ted Heinrich, AUSA,
Basil C. Williams]